Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT AINITAL.

Appeal from Order No.03 of 2006

M/s Uttaranchal Diagnostic Centre Ltd. (Regd)
Main Office T-97-D, Main Road, Village Kirkhi,
Press Enclave Road, New Delhi 1100017
Through Director Sri N.K. Bhatt S/o Late Sri Srikant Bhatt
R/o C-40, Krishna Park, Devli Road, New Delhi

..... Appellant.

Versus

1. Dr. Mahesh Prasad Kudiyal S/o Late Sri Chetram Kudiyal, R/o 56 Hardwar Road, Dehradun

2. Sri Rajeshwar Prasad Penuli S/o Sri Kamlesh Prasad Penuli, A-43A, DDA Flats, Munirka, New Delhi

..... Respondents

Sri B.P. Nautiyal, learned counsel for the appellant,
Sri L.K. Tewari, ld. Counsel for the respondents.

Date: August 24, 2006

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been preferred by the appellant against the order dated 24.9.2005 passed by Addl. District Judge/FTC-V, Dehradun in Original Suit No. 394 of 2004, directing the plaintiff/appellant to make the court fee good on the valuation of Rs.20.00 lacs.

2. The trial court has recorded a finding of fact that the sale deed was executed for Rs.20.00 lacs and court fee on that amount was paid according to sub-clause (2) of Section 7(iv-A) of the Court Fees Act, which was objected by the defendants saying that the suit was under valued and sale deed was executed by one of the Directors of the company to another Director, therefore

both the Directors were party to sale deed. Accordingly, the court fee was payable on the marked value of the property under sub-clause (1) of Section 7 (iv-A) of the Court Fees Act.

3. The trial court has rightly held that the court fee was payable on the market value shown i.e. Rs.20.00 lacs under clause (V) of Section 7 for the Court Fees Act and also separate court fee was liable to be paid for possession of the property on its valuation and the valuation of the property is shown to be Rs. 20.00 lacs. Therefore, on the amount of Rs.20.00 lacs, the court fee on possession was also liable to be paid.

4. In view of the above, we do not find any infirmity or illegality in the order passed by the trial court. Therefore, we affirm the order dated 24.9.2005 passed by the trial court and dismiss the appeal accordingly. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang